

IN THE MUNICIPAL COURT OF THE CITY OF TIGARD
COUNTY OF WASHINGTON, STATE OF OREGON

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| In the Matter of |) | |
| |) | Order No. 01-09 |
| PROCEDURES FOR TESTIMONY AND |) | SUPPLEMENTAL COURT RULE |
| TRIALS BY AFFIDAVIT |) | (ORS 153.080) |

IT IS HEREBY ORDERED as follows:

In any trial of a traffic violation, the court may admit as evidence the affidavit of a witness in lieu of taking the testimony of the witness orally and in court, subject to ORS 153.080 and the following conditions:

1. Testimony by affidavit shall be allowed upon receiving a signed statement of the defendant waiving the right to have the testimony presented orally in court.
2. Testimony by affidavit under this rule shall not be subject to objection as hearsay.
3. The filing of an affidavit under this rule shall be deemed to constitute a waiver of trial pursuant to ORS 153.080 (3).
4. Nothing in this rule shall require the defendant or any witness to waive the right to appear if other testimony is introduced by affidavit as provided by ORS 153.080.
5. All affidavits submitted pursuant to this rule shall be presented in a form approved by the court. Each affidavit shall contain a section notifying the defendant of the waiver of trial and the other information set forth in paragraph 6 below.
6. Upon request by a defendant, the court shall provide a form designated "Testimony by Affidavit" and containing the following statement:

"By filing this affidavit, I understand that I am giving up ("waiving") my right to present my oral testimony in court at trial. I am asking the court to decide whether I am guilty or not guilty of the above violation(s) based on this affidavit and other evidence submitted to the court. I further understand that I am giving up my right to question or cross-examine the police officer and other witnesses who testify, whether in court or by affidavit."
7. If a defendant fails to file an affidavit within the time permitted by the court, a default judgment may be entered.
8. If a police officer fails to file an affidavit within the time permitted by the court, the citation shall be dismissed.

DATED June 6, 2001.

Michael J. O'Brien, Presiding Judge
Tigard Municipal Court